

**SUBSTITUTE FOR  
HOUSE BILL NO. 4456**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 11509, 11510, 11511, 11511a, 11511b, 11512,  
11513, 11514, 11514b, 11515, 11516, 11517, 11518, 11519, 11519b,  
and 11521b (MCL 324.11509, 324.11510, 324.11511, 324.11511a,  
324.11511b, 324.11512, 324.11513, 324.11514, 324.11514b, 324.11515,  
324.11516, 324.11517, 324.11518, 324.11519, 324.11519b, and  
324.11521b), sections 11509, 11510, 11512, 11513, 11515, 11516, and  
11518 as amended and sections 11511a and 11519b as added by 2018 PA  
640, section 11511 as amended by 2011 PA 215, section 11511b as  
amended by 2016 PA 437, section 11514 as amended by 2008 PA 394,  
section 11514b as added by 2018 PA 688, sections 11517 and 11519 as  
amended by 1996 PA 358, and section 11521b as added by 2014 PA 24,

by designating sections 11509 to 11519b as subpart 2 and section 11521b as subpart 3 of part 115, and by adding sections 11512b, 11512d, 11512f, and 11512h; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**SUBPART 2 DISPOSAL AREAS**

Sec. 11509. (1) ~~Except as otherwise provided in section 11529,~~  
~~a~~ **This section and sections 11510 to 11512 apply to disposal areas other than the following:**

(a) A solid waste processing and transfer facility described in section 11513(1) or (2).

(b) An incinerator that does not comply with the construction permit and operating license requirements of this subpart, as allowed under section 11540.

(2) A person shall not establish a disposal area except as authorized by a construction permit issued by the department pursuant to part 13. ~~In addition, a person shall not establish a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued pursuant to this part.~~ A person proposing the establishment of a disposal area shall ~~apply~~ **submit the application** for a construction permit to ~~the department through the~~ **appropriate local** health officer. ~~If~~  
**However, if** the disposal area is located in a county or city that does not have a certified health department, the application shall be ~~made~~ **submitted** directly to the department. **An application for a construction permit shall be accompanied by engineering plans.**

(3) ~~(2) The application for a construction permit shall contain the name and residence of the applicant, the location of the proposed disposal area, the design capacity of the disposal area, and other information specified by rule. A person may apply~~

~~to construct more than 1 type of disposal area at the same facility under a single permit. The~~ **An application for a construction permit for a landfill** shall be accompanied by an engineering plan and a construction permit application fee. ~~A construction permit application for a landfill shall be accompanied by a fee in an amount that is the sum of all of the following fees, as applicable:~~ **in the following amount:**

(a) For a new ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill, ~~\$1,500.00.~~ **\$3,000.00.**

(ii) ~~For~~ **Except as provided in subparagraph (iii), for** an industrial waste landfill, ~~\$1,000.00.~~ **\$2,000.00.**

(iii) For a type III landfill limited to low hazard industrial waste, ~~\$750.00.~~ **\$1,500.00.**

(b) For a lateral expansion of a ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill, ~~\$1,000.00.~~ **\$2,000.00.**

(ii) ~~For~~ **Except as provided in subparagraph (iii), for** an industrial waste landfill, ~~\$750.00.~~ **\$1,500.00.**

(iii) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, ~~\$500.00.~~ **\$1,000.00.**

(c) For a vertical expansion of an existing ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill, ~~\$750.00.~~ **\$1,500.00.**

(ii) ~~For~~ **Except as provided in subparagraph (iii), for** an

1 industrial waste landfill, ~~\$500.00.~~**\$1,000.00.**

2 (iii) For an industrial waste landfill limited to low hazard  
3 industrial waste, construction and demolition waste, or other  
4 nonindustrial waste, ~~\$250.00.~~**\$500.00.**

5 (d) For a new coal ash impoundment, ~~a fee of \$1,000.00.~~

6 (e) For a lateral or vertical expansion of a coal ash  
7 impoundment, ~~a fee of \$750.00.~~

8 **(4) (3) The An** application for a construction permit for a  
9 ~~solid waste transfer facility, a solid waste processing plant,~~  
10 ~~other disposal area, or a combination of these, that is not a~~  
11 **landfill** shall be accompanied by ~~a~~**an application** fee in the  
12 following amount:

13 (a) For a new ~~facility~~**disposal area** for municipal solid  
14 waste, or a combination of municipal solid waste and waste listed  
15 in subdivision (b), ~~\$1,000.00.~~**\$2,000.00.**

16 (b) For a new ~~facility~~**disposal area** for industrial waste, or  
17 construction and demolition waste, ~~\$500.00.~~**\$1,000.00.**

18 (c) For the expansion of an existing ~~facility~~**disposal area**  
19 for any type of waste, ~~\$250.00.~~**\$500.00.**

20 **(5) (4)** If an application is returned to the applicant as  
21 administratively incomplete, ~~the department shall refund the entire~~  
22 ~~fee.~~**the applicant may, within 1 year after the application is**  
23 **returned, resubmit the application, together with the additional**  
24 **information as needed to address the reasons for being incomplete,**  
25 **without paying an additional application fee.** If a permit is denied  
26 or an application is withdrawn, ~~the department shall refund 1/2 the~~  
27 ~~amount specified in subsection (3) to the applicant. An~~**an**  
28 applicant for a construction permit, within ~~12 months~~**1 year** after  
29 ~~a~~**the** permit denial or **application** withdrawal, may resubmit the

1 application, ~~and the refunded portion of the fee,~~ together with the  
2 additional information as needed to address the reasons for denial  
3 **or withdrawal**, without ~~being required to pay~~ **paying** an additional  
4 application fee.

5 (6) ~~(5) An~~ **Subject to section 11510(2)(d),** an application for  
6 a modification to a construction permit or for renewal of a  
7 construction permit ~~which~~ **that** has expired shall be accompanied by  
8 a fee of \$250.00. ~~Increases in final elevations that do not result~~  
9 ~~in an increase in design capacity or a change in the solid waste~~  
10 ~~boundary shall be considered a modification and not a vertical~~  
11 ~~expansion.~~ **\$500.00.**

12 (7) ~~(6) A~~ **A person may apply for a single permit to construct**  
13 **more than 1 type of disposal area at the same facility.** A person  
14 who applies to permit more than 1 type of disposal area at the same  
15 facility shall pay a fee equal to the sum of the applicable fees  
16 listed in this section **for each type of disposal area.**

17 (8) ~~(7) The~~ department shall deposit permit application fees  
18 collected under this section in the solid waste staff account of  
19 the solid waste management fund. ~~established in section 11550.~~

20 (9) **The department shall not approve an application for a**  
21 **construction permit for a new type II landfill that is not**  
22 **contiguous to an already permitted type II landfill or for a new**  
23 **municipal solid waste incinerator unless the approval is requested**  
24 **by the county board of commissioners and the department determines**  
25 **that the landfill or incinerator is needed for the planning area.**  
26 **The county board of commissioners' request shall include a**  
27 **demonstration that materials utilization options have been**  
28 **exhausted. The department's determination of need shall be based on**  
29 **public health, solid waste disposal capacity, and economic issues**

1 that would arise without the new site.

2 (10) As used in this section, "contiguous" means either of the  
3 following:

4 (a) On the same property. The property may be divided by  
5 either of the following:

6 (i) The boundary of a local unit of government.

7 (ii) A public or private right-of-way if access to and from the  
8 right-of-way for each piece of the property is opposite the access  
9 for the other piece of the property so that movement between the 2  
10 pieces of the property is by crossing the right-of-way.

11 (b) On 2 or more properties owned by the same person if the  
12 properties are connected by a right-of-way that the owner controls  
13 and to which the public does not have access.

14 Sec. 11510. (1) Before ~~the submission of~~ **submitting** a  
15 construction permit application **under section 11509** for a new  
16 disposal area, ~~the applicant~~ **a person** shall request a **local** health  
17 officer or the department to provide an advisory analysis of the  
18 proposed disposal area. ~~However, the applicant, not less than~~  
19 **Beginning** 15 days after the request, and notwithstanding an  
20 analysis result, **the person** may file an application for a  
21 construction permit.

22 (2) Upon receipt of a construction permit application, the  
23 department shall do all of the following:

24 (a) Immediately notify the clerk of the municipality in which  
25 the disposal area is located or proposed to be located, the local  
26 soil erosion and sedimentation control agency **under part 93**, each  
27 division within the department and the department of natural  
28 resources that has responsibilities in land, air, or water  
29 management, **the regional planning agency**, and the designated

1 ~~regional solid waste management planning agency~~ **for the planning**  
 2 **area.**

3 (b) Publish a notice in a newspaper **or by electronic media**  
 4 having major circulation **or viewership** in the vicinity of the  
 5 proposed disposal area. The ~~required published~~ notice shall contain  
 6 **a-all of the following:**

7 (i) **A** map indicating the location of the proposed disposal  
 8 area. ~~and shall contain a~~

9 (ii) **A** description of the proposed disposal area. ~~and the~~

10 (iii) **The** location where the complete application package may be  
 11 reviewed and where copies may be obtained.

12 (c) Indicate in the ~~public, departmental, and municipality~~  
 13 ~~notice~~ **notices under subdivisions (a) and (b)** that the department  
 14 ~~shall~~ **will** hold a public hearing in the area of the proposed  
 15 disposal area if a written request is submitted by the applicant,  
 16 ~~or a municipality,~~ **or a designated planning agency** within 30 days  
 17 after the date of publication of the notice, or by a petition  
 18 submitted to the department containing a number of signatures equal  
 19 to not less than 10% of the number of registered voters of the  
 20 municipality where the proposed disposal area is to be located who  
 21 voted in the last gubernatorial election. The petition shall be  
 22 validated by the clerk of the municipality. The **department shall**  
 23 **hold the** public hearing ~~shall be held~~ after the department makes a  
 24 preliminary review of the application and all pertinent data and  
 25 before a construction permit is issued or denied.

26 (d) Conduct a consistency review ~~of the plans~~ of the proposed  
 27 disposal area, **including the site, plans, and application,** to  
 28 determine if ~~it complies~~ **they comply** with ~~this part and the rules~~  
 29 ~~promulgated under this part.~~ **115.** The review shall be made

1 **conducted** by persons qualified in hydrogeology and, ~~sanitary~~ **if the**  
 2 **disposal area is a landfill**, landfill engineering. ~~A written~~  
 3 ~~acknowledgment~~ **The department shall not issue a construction permit**  
 4 **unless the persons conducting the review acknowledge** that the  
 5 application package ~~is in compliance~~ **complies** with the requirements  
 6 of **part 115**. ~~this part and rules promulgated under this part by the~~  
 7 ~~persons qualified in hydrogeology and sanitary landfill engineering~~  
 8 ~~shall be received before a construction permit is issued. If the~~  
 9 ~~consistency review of the site and the plans and the application~~  
 10 ~~meet the requirements of this part and the rules promulgated under~~  
 11 ~~this part, the department shall issue a~~ **The** construction permit  
 12 ~~that may contain a stipulation specifically applicable to the site~~  
 13 ~~and operation. Except as otherwise provided in section 11542, an~~ **An**  
 14 expansion of the area of a disposal area, an enlargement in  
 15 capacity of a disposal area, **a change in the solid waste boundary**,  
 16 or an alteration of a disposal area to a different type of disposal  
 17 area than had been specified in the previous construction permit  
 18 application constitutes a new proposal for which a new construction  
 19 permit, **rather than a modification of a construction permit**, is  
 20 required. The upgrading of a disposal area type required by the  
 21 department to comply with ~~this part or the rules promulgated under~~  
 22 ~~this part 115~~ or to comply with a consent order does not require a  
 23 new construction permit.

24 (e) Notify the Michigan aeronautics commission if the disposal  
 25 area is a ~~sanitary~~ landfill that is a new site or a lateral  
 26 expansion or vertical expansion of an existing unit proposed to be  
 27 located within 5 miles of a runway or a proposed runway extension  
 28 contained in a plan approved by the Michigan aeronautics commission  
 29 of an airport licensed and regulated by the Michigan aeronautics



1 commission. The department shall make a copy of the application  
 2 available to the Michigan aeronautics commission. If, ~~after a~~  
 3 ~~period of time for review and comment not to exceed~~ **not more than**  
 4 60 days **after receiving notification from the department**, the  
 5 Michigan aeronautics commission informs the department ~~that it~~  
 6 ~~finds~~ that operation of the proposed disposal area would present a  
 7 potential hazard to air navigation and presents the basis for its  
 8 findings, the department may either recommend appropriate changes  
 9 in the location, construction, or operation of the proposed  
 10 disposal area or deny the application for a construction permit.  
 11 The department shall give an applicant an opportunity to rebut a  
 12 finding of the Michigan aeronautics commission that the operation  
 13 of a proposed disposal area would present a potential hazard to air  
 14 navigation.

15 (3) The Michigan aeronautics commission shall notify the  
 16 department and the owner or operator of a landfill if the Michigan  
 17 aeronautics commission is considering approving a plan that would  
 18 provide for a runway or the extension of a runway within 5 miles of  
 19 ~~a~~ **the** landfill.

20 Sec. 11511. (1) The department shall notify the clerk of the  
 21 municipality in which the disposal area is proposed to be located  
 22 and the applicant of its approval or denial of an application for a  
 23 construction permit **under section 11509** within 10 days after the  
 24 final decision is made.

25 (2) A construction permit ~~shall expire~~ **expires** 1 year after  
 26 the date of issuance, unless development under the construction  
 27 permit is initiated within that year. A construction permit that  
 28 has expired may be renewed upon payment of a permit renewal fee **of**  
 29 **\$500.00** and submission of any additional relevant information the

1 department may require.

2 ~~(3) Except as otherwise provided in this subsection, the~~  
 3 ~~department shall not issue a construction permit for a disposal~~  
 4 ~~area within a planning area unless a solid waste management plan~~  
 5 ~~for that planning area has been approved pursuant to sections 11536~~  
 6 ~~and 11537 and unless the disposal area complies with and is~~  
 7 ~~consistent with the approved solid waste management plan. The~~  
 8 ~~department may issue a construction permit for a disposal area~~  
 9 ~~designed to receive ashes produced in connection with the~~  
 10 ~~combustion of fossil fuels for electrical power generation in the~~  
 11 ~~absence of an approved county solid waste management plan, upon~~  
 12 ~~receipt of a letter of approval from whichever county or counties,~~  
 13 ~~group of municipalities, or regional planning agency has prepared~~  
 14 ~~or is preparing the county solid waste management plan for that~~  
 15 ~~planning area under section 11533 and from the municipality in~~  
 16 ~~which the disposal area is to be located.~~

17 Sec. 11511a. (1) A new coal ash landfill, a new coal ash  
 18 impoundment, or a new lateral expansion of a coal ash landfill or  
 19 **coal ash** impoundment shall comply with the requirements of R  
 20 299.4304, R 299.4305, and R 299.4307 to R 299.4317 of the ~~part 115~~  
 21 ~~rules, MAC~~, except that the minimum design standard for a new coal  
 22 ash landfill, a new coal ash impoundment, or a new lateral  
 23 expansion of a coal ash landfill or **coal as** impoundment pursuant to  
 24 R 299.4307(4) of the ~~part 115 rules shall be MAC is~~ solely R  
 25 299.4307(4)(b) of the ~~part 115 rules MAC~~ and not R 299.4307(4)(a),  
 26 (c), or (d) of the ~~part 115 rules MAC~~.

27 (2) A new coal ash landfill, ~~or a new~~ coal ash impoundment, or  
 28 a new lateral expansion of a coal ash landfill or coal ash  
 29 impoundment shall comply with the location requirements of R

299.4411 to R 299.4413 and R 299.4415 to ~~R 299.4418 of the part 115 rules, MAC~~, except that a new coal ash landfill or coal ash impoundment or a new lateral expansion of a coal ash landfill or coal ash impoundment shall maintain a permanent minimum clearance from the bottom of the primary liner of not less than 5 feet to the natural groundwater level.

(3) The department shall not issue a construction permit for a new coal ash landfill or new coal ash impoundment or a new lateral expansion of a coal ash landfill or coal ash impoundment unless all of the following apply:

(a) The landfill, impoundment, or expansion, respectively, complies with subsections (1) and (2), as applicable.

(b) The landfill, impoundment, or expansion, respectively, complies with R 299.4306 of the ~~part 115 rules~~. **MAC.**

(c) The owner or operator has provided to the department a detection monitoring program in a hydrogeological monitoring plan that complies with R 299.4440 to R 299.4445 and R 299.4905 to R 299.4908 of the ~~part 115 rules~~, **MAC**, as applicable. **However, R 299.4440(3) and R 299.4440(6) of the MAC do not apply to coal ash impoundments or coal ash landfills.** The waiver described in R 299.4440(2) of the ~~part 115 rules~~ **MAC** is not available to coal ash impoundments or coal ash landfills. **Groundwater sampling related to coal ash impoundments or coal ash landfills shall not be field filtered.** The constituents monitored in the detection monitoring program shall include all of the following:

(i) Boron.

(ii) Calcium.

(iii) Chloride.

(iv) Fluoride.

(v) Iron.

(vi) pH.

(vii) Sulfate.

(viii) Total dissolved solids.

~~(d) R 299.4440(3) and 299.4440(6) of the part 115 rules do not apply to coal ash impoundments or coal ash landfills.~~

~~(e) Groundwater sampling related to coal ash impoundments or coal ash landfills shall not be field filtered.~~

(d) ~~(f)~~ The landfill, impoundment, or expansion, respectively, complies with 1 of the following, **if applicable**:

(i) Section 11519b(2) and (4). ~~, if applicable.~~

(ii) A schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with ~~this part~~ **115** within a reasonable time period but not ~~more than 2 years after the effective date of the amendatory act that added this section.~~ **later than December 28, 2020.**

(4) The constituents listed in this section shall be analyzed by methods ~~specified~~ **identified** in "Standard Methods for the Examination of Water and Wastewater, ~~19th~~ **20th** Edition," ~~published by the United States Environmental Protection Agency,~~ **(jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation)** or **"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015)** or by other methods approved by the director or his or her designee.

Sec. 11511b. (1) A person may submit to the department a

1 project abstract for an RDDP. If, based on the project abstract,  
 2 the ~~director~~**department** determines that the RDDP will provide  
 3 beneficial data on alternative landfill design, construction, or  
 4 operating methods, the person may apply for a construction permit  
 5 under section 11509, including the renewal or modification of a  
 6 construction permit, authorizing the person to establish the RDDP.

7 (2) An RDDP is subject to the same requirements, including,  
 8 but not limited to, permitting, construction, licensing, operation,  
 9 closure, postclosure, financial assurance, fees, and sanctions as  
 10 apply to other type II landfills or landfill units under ~~this part~~  
 11 ~~and the rules promulgated under this part 115~~, except as provided  
 12 in this section.

13 (3) An extension of the processing period for an RDDP  
 14 construction permit is not subject to the limitations under section  
 15 1307.

16 (4) An application for an RDDP construction permit shall  
 17 include, in addition to the applicable information required in  
 18 other type II landfill construction permit applications, all of the  
 19 following:

20 (a) A description of the RDDP goals.

21 (b) Details of the design, construction, and operation of the  
 22 RDDP as necessary to ensure protection of ~~human~~**the environment,**  
 23 **natural resources, and the public** health, ~~and the environment.~~  
 24 **safety, and welfare.** The design shall be at least as protective of  
 25 ~~human~~**the environment, natural resources, and the public** health,  
 26 ~~and the environment~~**safety, and welfare** as other designs that are  
 27 required under ~~this part and rules promulgated under this part.115.~~

28 (c) A list and discussion of the types of waste that will be  
 29 disposed of, excluded, or added, including the types and amount of

1 liquids that will be added under subsection (5) and how the  
2 addition will benefit the RDDP.

3 (d) A list and discussion of the types of compliance  
4 monitoring and operational monitoring that will be performed.

5 (e) Specific means to address potential nuisance conditions,  
6 including, but not limited to, odors and health concerns as a  
7 result of human contact.

8 (5) The department may authorize the addition of liquids,  
9 including, but not limited to, septage waste or other liquid waste,  
10 to solid waste in an RDDP if the applicant has demonstrated that  
11 the addition is necessary to accelerate or enhance the  
12 biostabilization of the solid waste and is not merely a means of  
13 disposal of the liquid. ~~The department may require that the septage~~  
14 ~~waste, or any other liquid waste, added to an RDDP originate within~~  
15 ~~the county where the RDDP is located or any county contiguous to~~  
16 ~~the county where the RDDP is located.~~ **liquids**. If an RDDP is  
17 intended to accelerate or enhance biostabilization of solid waste,  
18 the construction permit application shall include, in addition to  
19 the ~~requirements of~~ **information required under** subsection (4), all  
20 of the following:

21 (a) An evaluation of the potential for a decreased slope  
22 stability of the waste caused by any of the following:

23 (i) Increased presence of liquids.

24 (ii) Accelerated degradation of the waste.

25 (iii) Increased gas pressure buildup.

26 (iv) Other relevant factors.

27 (b) An operations management plan that incorporates all of the  
28 following:

29 (i) A description of and the proportion and expected quantity

1 of all components that are needed to accelerate or enhance  
2 biostabilization of the solid waste.

3 (ii) A description of any solid or liquid waste that may be  
4 detrimental to the biostabilization of the solid waste intended to  
5 be disposed of or to the RDDP goals.

6 (iii) An explanation of how the detrimental waste described in  
7 subparagraph (ii) will be prevented from being disposed of in cells  
8 approved for the RDDP.

9 (c) Parameters, such as moisture content, stability, gas  
10 production, and settlement, that will be used by the department to  
11 determine the beginning of the postclosure period for the RDDP  
12 under subsection (10).

13 (d) Information to ensure that the requirements of subsection  
14 (6) will be met.

15 (6) An RDDP shall meet all of the following requirements:

16 (a) Ensure that added liquids are evenly distributed and that  
17 side slope breakout of liquids is prevented.

18 (b) Ensure that daily cover practices or disposal of low  
19 permeability solid wastes does not adversely affect the free  
20 movement of liquids and gases within the waste mass.

21 (c) Include all of the following:

22 (i) A means to monitor the moisture content and temperature of  
23 the waste.

24 (ii) A leachate collection system of adequate size for the  
25 anticipated increased liquid production rates. The design's factor  
26 of safety shall take into account the anticipated increased  
27 operational temperatures and other factors as appropriate.

28 (iii) A means to monitor the depth of leachate on the liner.

29 (iv) An ~~integrated~~ active gas collection **and control** system.

1 The system shall be of adequate size for the anticipated methane  
2 production rates and to control odors. The system ~~shall~~**must** be  
3 operational before the addition of any material to accelerate or  
4 enhance biostabilization of the solid waste.

5 (7) The owner or operator of an RDDP for which a construction  
6 permit has been issued shall submit a report to the ~~director~~  
7 **department** at least once every 12 months on the progress of the  
8 RDDP in achieving its goals. The report shall include a summary of  
9 all monitoring and testing results, as well as any other operating  
10 information specified by ~~the director in the~~ permit or in a  
11 subsequent permit modification or operating condition.

12 (8) A permit for an RDDP shall specify the term of the permit,  
13 which shall not exceed 3 years. However, the owner or operator of  
14 an RDDP may apply for and the department may grant an extension of  
15 the term of the permit, subject to all of the following  
16 requirements:

17 (a) The application to extend the term of the permit must be  
18 received by the department at least 90 days before the expiration  
19 of the permit.

20 (b) The application shall include a detailed assessment of the  
21 RDDP showing the progress of the RDDP in achieving its goals, a  
22 list of problems with the RDDP and progress toward resolving those  
23 problems, and other information that the ~~director~~**department**  
24 determines is necessary to accomplish the purposes of ~~this part~~  
25 **115.**

26 (c) If the department fails to make a final decision within 90  
27 days ~~of~~**after** receipt of an administratively complete application  
28 for an extension of the term of a permit, the term of the permit is  
29 extended for 3 years.



1 (d) An individual extension shall not exceed 3 years, and the  
2 total term of the permit with all extensions shall not exceed 21  
3 years.

4 (9) If the ~~director~~**department** determines that the overall  
5 goals of an RDDP, including, but not limited to, protection of  
6 ~~human~~**the environment, natural resources, and the public** health, ~~or~~  
7 ~~the environment,~~**safety, and welfare**, are not being achieved, the  
8 ~~director~~**department** may order immediate termination of all or part  
9 of the operations of the RDDP or may order other corrective  
10 measures.

11 (10) The postclosure period for a facility authorized as an  
12 RDDP begins when the department determines that the unit or portion  
13 of the unit where the RDDP was authorized has reached a condition  
14 similar to the condition that non-RDDP landfills would reach ~~prior~~  
15 ~~to~~**before** postclosure. The parameters, such as moisture content,  
16 stability, gas production, and settlement, to attain this condition  
17 shall be specified in the permit. The ~~perpetual~~**landfill** care fund  
18 ~~required under section 11525~~ shall be maintained for the period  
19 after final closure of the landfill as specified under section  
20 ~~11525~~**11523(1) (a)**.

21 (11) The ~~director~~**department** may authorize the conversion of  
22 an RDDP to a full-scale operation if the owner or operator of the  
23 RDDP demonstrates to the satisfaction of the ~~director~~**department**  
24 that the goals of the RDDP have been met and the authorization does  
25 not constitute a less stringent permitting requirement than is  
26 required under subtitle D of the solid waste disposal act, 42 USC  
27 6941 to 6949a, **and regulations promulgated thereunder**.

28 ~~(12) As used in this section, "RDDP" means a research,~~  
29 ~~development, and demonstration project for a new or existing type~~

~~II landfill unit or for a lateral expansion of a type II landfill unit.~~

Sec. 11512. (1) **This section applies to disposal areas as provided in section 11509(1).**

(2) A person shall **not** dispose of solid waste at a disposal area ~~licensed under this part unless a person is permitted unless~~ **the disposal area is licensed under this section. However, a person authorized** by state law or rules promulgated by the department to **do so may** dispose of the solid waste at the site of generation. Waste placement in existing landfill units shall be consistent with past operating practices or modified practices to ensure good management.

(3) ~~(2) Except as otherwise provided in this section, or in section 11529, a person shall not conduct, manage, maintain, or operate a disposal area within this state except as authorized by an operating license issued by the department pursuant to part 13. In addition, a person shall not conduct, manage, maintain, or operate a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued under this part. A person who intends to conduct, manage, maintain, or operate a~~ **The owner or operator of the** disposal area shall submit a license application to the department through a certified health department. Existing coal ash impoundments are exempt from the licensing requirements of this part through ~~the date that is 2 years after the effective date of the amendatory act that added section 11511a. December 28, 2020.~~ If the disposal area is located in a county or city that does not have a certified health department, the application shall be made directly to the department. A person authorized by ~~this part~~ **115** to operate more

1 than 1 type of disposal area at the same facility may apply for a  
2 single license.

3 ~~(4) (3) The application for a license shall contain the name~~  
4 ~~and residence of the applicant, the location of the proposed or~~  
5 ~~existing disposal area, the type or types of disposal area~~  
6 ~~proposed, evidence of bonding, and other information required by~~  
7 ~~rule. In addition, an~~ **An applicant for a license** ~~for a type II or~~  
8 **type III** landfill shall submit evidence of financial assurance  
9 ~~adequate to meet~~ **that meets** the requirements of section 11523a, the  
10 maximum waste slope in the active portion, an estimate of remaining  
11 permitted capacity, and documentation ~~on~~ **of** the amount of waste  
12 received at the disposal area during the previous license period or  
13 expected to be received, whichever is greater. ~~The application~~  
14 ~~shall be accompanied by a fee as specified in subsections (7), (9),~~  
15 ~~and (10).~~

16 ~~(5) (4) At the time of~~ **An** application for a license for a  
17 disposal area ~~, the applicant shall submit to a health officer or~~  
18 ~~the department~~ **other than an existing coal ash impoundment shall**  
19 **include** a certification under the seal of a licensed professional  
20 engineer verifying that the construction of the disposal area has  
21 proceeded according to the approved plans. ~~Any~~ **An** applicant for a  
22 license for an existing coal ash impoundment ~~is exempt from the~~  
23 ~~preceding requirement of this subsection but, when applying for a~~  
24 ~~license,~~ shall submit **with the application** documentation in the  
25 applicant's possession or control regarding the construction of the  
26 impoundment. If construction of ~~the disposal area or a portion of~~  
27 ~~the disposal area~~ **a landfill** is not complete, the ~~department shall~~  
28 ~~require~~ **owner or operator shall submit** additional construction  
29 certification of that portion of the ~~disposal area during~~

~~intermediate progression of the operation, as specified in section 11516(5).~~ **landfill under section 11516(3).**

(6) ~~(5)~~—An applicant for an operating license, within 6 months after a license denial, may resubmit the application, together with additional information or corrections as are necessary to address the reason for denial, without being required to pay an additional application fee.

(7) ~~(6)~~—~~In order to~~ **To** conduct tests and assess operational capabilities, the owner or operator of a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit may operate the incinerator without an operating license, upon notice to the department, for a period not to exceed 60 days.

(8) ~~(7)~~—The application for a type II landfill operating license shall be accompanied by the following fee for the 5-year term of the operating license, ~~calculated in accordance with~~ **subject to subsection ~~(8)~~ (9):**

(a) Landfills receiving less than 100 tons per day, ~~\$250.00.~~ **\$500.00.**

(b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, ~~\$1,000.00.~~ **\$1,500.00.**

(c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, ~~\$2,500.00.~~ **\$4,000.00.**

(d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, ~~\$5,000.00.~~ **\$6,500.00.**

(e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, ~~\$10,000.00.~~ **\$12,500.00.**

(f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, ~~\$20,000.00.~~ **\$22,500.00.**

(g) Landfills receiving ~~greater~~**more** than 3,000 tons per day,  
~~\$30,000.00.~~**\$33,000.00.**

**(9)** ~~(8)~~ Type II landfill application fees shall be based on the average amount of waste **in tons** projected to be received daily during the license period. Application fees for license renewals shall be based on the average amount of waste received **daily** in the previous calendar year **based on a 365-day calendar year.**

Application fees shall be adjusted in the following circumstances:

(a) If a landfill accepts more ~~waste than projected,~~ **than the amount of waste on which the application fee was based,** a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less ~~waste than projected,~~ **than the amount of waste on which the application fee was based,** the department shall credit the applicant an amount equal to the difference with the next license application.

~~(c) A type II landfill that measures waste by volume rather than weight shall pay a fee based on 3 cubic yards per ton.~~

**(c)** ~~(d)~~ A landfill used exclusively for municipal solid waste incinerator ash that measures waste by volume rather than weight shall pay a fee based on 1 cubic yard per ton.

~~(e) If an application is submitted to renew a license more than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/2 the application fee.~~

~~(f) If an application is submitted to renew a license more than 6 months but less than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/4 the application fee.~~

**(10)** ~~(9)~~ The operating license application for a type III

1 landfill shall be accompanied by a fee of ~~\$2,500.00.~~ **\$5,000.00.**

2 **(11)** ~~(10)~~ An application for an operating license ~~by~~ **for** a  
 3 coal ash landfill shall be accompanied by a fee of \$13,000.00. ~~On~~  
 4 **By** the anniversary of the issuance of the operating license, while  
 5 the operating license remains in effect, the coal ash landfill  
 6 owner or operator shall pay the department a fee of \$13,000.00. If  
 7 the anniversary of the issuance of the operating license falls on a  
 8 legal holiday, the annual fee shall be paid ~~on~~ **by** the next business  
 9 day.

10 **(12)** ~~(11)~~ An application for an operating license by a coal  
 11 ash impoundment shall be accompanied by a fee of \$13,000.00. On the  
 12 anniversary of the issuance of the operating license, while the  
 13 operating license remains in effect, the coal ash impoundment owner  
 14 or operator shall pay the department a fee of \$13,000.00. If the  
 15 anniversary of the issuance of the operating license falls on a  
 16 legal holiday, the annual fee shall be paid on the next business  
 17 day.

18 **(13)** ~~(12)~~ The department shall deposit the fees collected  
 19 under subsections ~~(10) and (11)~~ **and (12)** in the coal ash care fund  
 20 ~~established~~ **created** in section 11550.

21 **(14)** ~~(13)~~ Upon receipt of a license application for either a  
 22 coal ash impoundment or a coal ash landfill, the department shall  
 23 do all of the following:

24 (a) Immediately send notice to the clerk of the municipality  
 25 where the disposal area is located and the designated regional  
 26 solid waste management planning agency.

27 (b) Publish a notice in a newspaper having major circulation  
 28 in the vicinity of the disposal area.

29 **(15)** ~~(14)~~ The notices under subsection ~~(13)~~ **(14)** shall meet

1 all of the following requirements:

2 (a) Include a map indicating the location of the disposal area  
3 and a description of the disposal area.

4 (b) Specify the location where the complete application  
5 package may be reviewed and where copies may be obtained.

6 (c) Indicate that the department will accept comments for 45  
7 days after the date of publication of the notice.

8 (d) Indicate that the department shall hold a public meeting  
9 in the area of the disposal area if, within 15 days after the date  
10 of publication of the notice, any of the following occur:

11 (i) A written request for a public meeting is submitted to the  
12 department by the applicant or a municipality.

13 (ii) The department determines that there is a significant  
14 public interest in or known public controversy over the application  
15 or that for any other reason a public meeting is appropriate.

16 (16) ~~(15)~~ A public meeting referred to in subsection ~~(14)(d)~~  
17 (15) (d) shall be held after the department makes a preliminary  
18 review of the application and all pertinent data and before an  
19 operating license is issued or denied. During its review, the  
20 department shall consider input provided at the public meeting.

21 (17) ~~(16)~~ If an application is returned to the applicant as  
22 administratively incomplete, the department shall refund the entire  
23 fee. An applicant for a license, within 12 months after a license  
24 denial or withdrawal of a license application, may resubmit the  
25 application with the additional information as needed to address  
26 the reasons for denial, without being required to pay an additional  
27 application fee.

28 (18) ~~(17)~~ The operating license application for a solid waste  
29 processing plant, ~~solid waste~~ and transfer facility **that manages**

1 more than 200 cubic yards at any time, or other disposal area ~~, or~~  
 2 ~~combination of these entities that is not a landfill or surface~~  
 3 ~~impoundment~~ shall be accompanied by a fee equal to ~~\$500.00 of~~  
 4 ~~\$1,000.00.~~

5 (19) ~~(18)~~ Except as provided in subsection ~~(12)~~, ~~(13)~~, the  
 6 department shall deposit operating license application fees  
 7 collected under this section in the perpetual care account of the  
 8 solid waste management fund. ~~established in section 11550.~~

9 (20) ~~(19)~~ A person who applies for an operating license for  
 10 more than 1 type of disposal area at the same facility shall pay a  
 11 fee equal to the sum of the applicable application fees listed in  
 12 this section.

13 (21) The department shall not license a landfill or coal ash  
 14 impoundment unless the landfill or coal ash impoundment has an  
 15 approved hydrogeologic monitoring program and the owner or operator  
 16 has provided the department with the monitoring results. The  
 17 department shall use this information in conjunction with other  
 18 information required by part 115 to determine a course of action  
 19 regarding licensing of the facility consistent with section 4005 of  
 20 subtitle D of the solid waste disposal act, 42 USC 6945, and with  
 21 part 115. In deciding a course of action, the department shall  
 22 consider, at a minimum, the environment, natural resources, the  
 23 public health, safety, and welfare, and other public or private  
 24 alternatives. If a landfill or coal ash impoundment violates part  
 25 115, the department may do any of the following:

26 (a) Revoke the landfill's or coal ash impoundment's license.

27 (b) If the disposal area is a coal ash impoundment that has  
 28 not been previously licensed under this part, deny a license.

29 (c) Issue a timetable or schedule of corrective action,



1 including a sequence of actions or operations, that leads to  
2 compliance with part 115 within a reasonable time period but not  
3 more than 1 year.

4 (22) A type II landfill does not require a separate solid  
5 waste processing and transfer facility permit or license to  
6 solidify industrial waste sludges on-site if that activity meets  
7 all of the following requirements:

8 (a) Occurs in containers or tanks as specified in part 121.

9 (b) Complies with part 55.

10 (c) Is approved by the department as part of the facility's  
11 operations plan.

12 (23) An existing industrial waste landfill may accept any of  
13 the following:

14 (a) Industrial waste.

15 (b) Solid waste that originates from an industrial site and is  
16 not a hazardous waste regulated under part 111.

17 (24) The owner or operator of a landfill shall annually submit  
18 a report to the department and the county and municipality in which  
19 the landfill is located that specifies the tonnage and type of  
20 solid waste received by the landfill during the year itemized, to  
21 the extent possible, by county, state, or country of origin and the  
22 amount of remaining disposal capacity at the landfill. Remaining  
23 disposal capacity shall be calculated as the permitted capacity  
24 less waste in place for any area that has been constructed and is  
25 not yet closed plus the permitted capacity for each area that has a  
26 permit for construction under part 115 but has not yet been  
27 constructed. The report shall be submitted within 45 days after the  
28 end of each state fiscal year. By January 31 of each year, the  
29 department shall submit to the legislature a report summarizing the

1 information obtained under this subsection.

2 (25) The owner or operator of a licensed processing and  
3 transfer facility, within 45 days after the end of each state  
4 fiscal year, shall submit to the department on a form and in a  
5 medium provided by the department, a report on the amount of  
6 materials managed at the facility during that state fiscal year.

7 Sec. 11512b. (1) A landfill that accepts waste with the  
8 potential to generate gas must be designed to prevent the migration  
9 of explosive gases generated by the waste.

10 (2) A landfill that accepts municipal solid waste must be  
11 designed with an active gas collection and control system. Except  
12 as otherwise provided for in this section or approved by the  
13 department, the active gas collection and control system shall  
14 include all of the following features:

15 (a) Vertical gas extraction wells that meet all of the  
16 following requirements:

17 (i) Are installed throughout the landfill with a maximum radius  
18 of influence of 150 feet per well and lesser radii for wells  
19 located near the perimeter of the landfill. The radii of influence  
20 of adjacent wells shall overlap. Alternate well spacings may be  
21 used for portions of a site or the entire site if approved by the  
22 department after a site-specific demonstration.

23 (ii) Have target depths of at least 75% of the waste depth at  
24 the well location. However, the wells should not extend closer than  
25 10 feet above the leachate collection system.

26 (iii) Are constructed of pipe that meets all of the following  
27 requirements:

28 (A) Is at least 6 inches in diameter.

29 (B) Is manufactured from polyvinylchloride, high-density

1 polyethylene, chlorinated polyvinyl chloride, or an alternate  
2 material approved by the department.

3 (C) Is designed to convey projected amounts of gas; withstand  
4 installation, static, and settlement forces; and withstand planned  
5 overburden and traffic loads.

6 (D) When constructed, is slotted or otherwise perforated and  
7 is screened in the lower 2/3 to 3/4 of its length in the borehole.  
8 The department may approve alternative perforated screened length  
9 requirements based on waste thickness or other factors.

10 (iv) Has boreholes that meet all of the following requirements:

11 (A) Are 36 inches in diameter. The department may approve  
12 alternate diameter boreholes as part of a design prepared by a  
13 licensed professional engineer and approved by the department.

14 (B) Are backfilled around the perforated pipe with 3/4- to 3-  
15 inch washed stone or an alternate material if approved by the  
16 department after a site-specific demonstration.

17 (C) The top 10 feet are sealed in a manner approved by the  
18 department.

19 (b) Horizontal gas extraction wells that are properly sloped  
20 to drain accumulated liquids and designed to withstand expected  
21 overburden pressures.

22 (c) A flow control valve and sampling access port on each gas  
23 extraction well.

24 (d) A gas header system that meets all of the following  
25 requirements:

26 (i) The entire gas header system is designed with a loop to  
27 allow alternative flow paths for the gas as soon as practicable  
28 during both the interim and final development phases of  
29 construction.

1           (ii) The slope on the header pipe over the waste mass is at  
2     least 2% wherever possible. The slope outside of the waste mass  
3     shall allow efficient removal of condensate and prevents sags.

4           (iii) The header and lateral pipes meet both of the following  
5     requirements:

6           (A) Are manufactured from polyethylene or another material  
7     approved by the department.

8           (B) Are designed to convey projected amounts of gas and  
9     liquids; withstand installation, static, and settlement forces; and  
10    withstand planned overburden and traffic loads.

11          (e) A blower, header, and laterals designed so that a vacuum  
12    of at least 10 inches of water column is available at the well  
13    located furthest from the blower. An available header vacuum of  
14    less than 10 inches of water column at the well located furthest  
15    from the blower complies with this subdivision if the owner or  
16    operator of the landfill demonstrates to the department that the  
17    available vacuum is adequate to meet performance criteria.

18          (f) A drip leg or equivalent installed immediately before the  
19    blower to separate condensate from gas while preserving the suction  
20    at the wells when under maximum operating vacuum.

21          (g) An approved secondary containment method for condensate  
22    and liquid transfer piping if the piping is located outside of the  
23    limits of the waste and installed after the effective date of the  
24    amendatory act that added this section.

25          (h) The ability to collect and manage all condensate, measure  
26    volumes of liquid removed from the gas extraction wells, and  
27    collect samples of landfill gas.

28          (i) A control device to which collected landfill gas is routed  
29    that meets all of the following requirements:

1 (i) Operates at all times gas is routed to it.

2 (ii) Is designed and operated to meet the requirements of part  
3 55 or the new source performance standards under 40 CFR part 60.

4 (iii) Operates backup blower or control equipment required under  
5 subdivision (j).

6 (j) Available backup equipment to effectively control landfill  
7 gas emissions during an equipment breakdown.

8 (k) The active gas collection and control system shall not be  
9 inoperable or unable to maintain a vacuum required by subdivision  
10 (e) for more than 5 consecutive days.

11 (3) A landfill that has a potential to generate gas shall have  
12 and comply with a gas migration monitoring plan. The plan shall  
13 include at least 1 gas monitoring probe on each side of the  
14 landfill. The plan shall be based on all of the following factors:

15 (a) Soil conditions.

16 (b) Hydrogeologic conditions surrounding the landfill.

17 (c) Hydraulic conditions surrounding the landfill.

18 (d) The location of landfill structures and property  
19 boundaries.

20 (4) A landfill that accepts industrial waste or other  
21 nonmunicipal solid waste with the potential to generate gas and  
22 that does not utilize an active gas collection and control system  
23 shall be designed with a system that allows gas venting from the  
24 entire landfill surface. The owner or operator of the landfill  
25 shall perform an analysis to determine the spacing needed between  
26 gas venting trenches for an effective system. The system shall be  
27 designed with a continuous layer, which may be utilized as part of  
28 the infiltration layer that protects the final cover liner from the  
29 waste and minimizes the effect of settlement. The continuous layer

1 shall meet all of the following requirements:

2 (a) Be located below the capping layer.

3 (b) Allow surficial venting from the waste final surface.

4 (c) Consist of at least 1 foot of granular soil with hydraulic  
5 conductivity of at least  $1.0 \times 10^{-3}$  cm/sec and a series of flexible,  
6 perforated pipes connected to a series of outlets or an alternative  
7 design approved by the department as providing equivalent  
8 performance.

9 Sec. 11512d. (1) The owner or operator of a landfill with an  
10 active gas collection and control system or a venting system shall  
11 install monitoring ports and conduct monitoring as specified by the  
12 department to determine the effectiveness of the system.

13 (2) The owner or operator of a landfill with an active gas  
14 collection and control system shall sample each gas extraction well  
15 for nitrogen or oxygen and for methane, pressure, temperature,  
16 liquid level, and, if existing wellheads allow flow measurement,  
17 flow. The owner or operator shall monitor gas flow to the control  
18 device, methane content at the control device, and other parameters  
19 as specified in an approved monitoring plan.

20 (3) The owner or operator of a landfill shall sample each gas  
21 extraction well monthly for the parameters, other than liquid  
22 level, listed in subsection (2). Except as provided in this  
23 subsection, the liquid level in each well shall be monitored at  
24 least semi-annually. If for 2 consecutive monitoring events the  
25 liquid level in a well exceeds 50% but does not exceed 75% of the  
26 screened interval length, the owner or operator shall submit to the  
27 department for review a liquids removal evaluation and corrective  
28 action report for the well, unless the well has a functional,  
29 operated liquid pump. If the liquid level in a well exceeds 75% of

1 the screened interval length during a monitoring event, then the  
2 liquid level monitoring frequency for that well shall be increased  
3 to quarterly. If the liquid level in a well exceeds 75% of the  
4 screened interval length for 2 consecutive monitoring events, the  
5 owner or operator of the landfill shall install a liquids pump,  
6 unless the department approves an alternative corrective action  
7 plan. If the liquid level in a well did not exceed 50% for the  
8 immediately preceding 2 consecutive monitoring events, the owner or  
9 operator may petition the department for a decreased monitoring  
10 frequency. However, decreased monitoring shall be conducted at  
11 least annually. For the purposes of the petition, the 2 consecutive  
12 monitoring events may include monitoring conducted before the  
13 effective date of the amendatory act that added this section.

14 (4) The owner or operator of a landfill required to have an  
15 active landfill gas collection and control system shall operate the  
16 system so that the methane concentration is 500 parts per million  
17 or less above background at the surface of the landfill.

18 (5) Not later than 180 days after initial waste receipt in a  
19 portion of a landfill, the owner or operator of the landfill shall  
20 commence surface monitoring for methane at all of the following  
21 locations:

22 (a) Where visual observations, such as of distressed  
23 vegetation or cracks or seeps in the cover, indicate elevated  
24 concentrations of landfill gas.

25 (b) At each penetration of daily, interim, or final landfill  
26 cover.

27 (c) Around the perimeter of the active gas collection and  
28 control system.

29 (d) Along a pattern that traverses the landfill at no more

1 than 30-meter intervals, unless the owner or operator establishes  
2 an alternative traversing pattern that is approved by the  
3 department after a site-specific demonstration.

4 (6) The owner or operator of a landfill shall conduct  
5 monitoring under subsection (5) in compliance with a surface  
6 monitoring design plan approved by the department that includes a  
7 topographical map showing the monitoring route and the rationale  
8 for any site-specific deviations from the 30-meter intervals under  
9 subsection (5) (d). The department may approve a surface monitoring  
10 design plan that excludes steep slopes or other dangerous areas  
11 from the surface monitoring.

12 (7) The owner or operator of a landfill shall do all of the  
13 following:

14 (a) Submit gas monitoring results to the department upon  
15 request.

16 (b) Prepare field records of all monitoring activities under  
17 this section in sufficient detail to document whether the sampling  
18 plan has been complied with.

19 (c) Retain the field records required under subdivision (b) in  
20 an operating record at the landfill or in an alternative location  
21 approved by the department until the end of the long-term care  
22 period for the landfill.

23 (d) Make the field records available for department inspection  
24 on request.

25 Sec. 11512f. (1) The owner or operator of a type II landfill  
26 shall submit to the department revised engineering plans and  
27 reports required by this section in compliance with the following  
28 schedule:

29 (a) If, on the effective date of the amendatory act that added



1 this section, the landfill has an active gas collection and control  
2 system and is subject to monthly wellhead monitoring pursuant to  
3 the new source performance standards under 40 CFR part 60, the  
4 owner or operator shall submit revised engineering plans that  
5 incorporate the approved new source performance standard plans  
6 within 90 days after the effective date of the amendatory act that  
7 added this section. The revised plans need not require upgrading of  
8 the initial active gas collection and control system in previously  
9 constructed areas unless it is necessary to correct surface  
10 emissions of methane at concentrations exceeding 500 parts per  
11 million above background that cannot be corrected within 1  
12 quarterly monitoring period by following the procedures of 40 CFR  
13 60.755(c)(4)(i) to (iv), to correct a nuisance odor violation, or  
14 to maintain vacuum requirements at the wellhead located farthest  
15 from the blower. The design requirements of section 11512b(2) apply  
16 to lateral extensions, lateral expansions, and all new units at the  
17 facility.

18 (b) If, on the effective date of the amendatory act that added  
19 this section, the landfill has an active gas collection and control  
20 system and is not subject to monthly wellhead monitoring pursuant  
21 to the new source performance standards under 40 CFR part 60, the  
22 owner or operator shall submit revised plans within 1 year after  
23 the effective date of the amendatory act that added this section.  
24 The revised plans need not require upgrading of the initial system  
25 in previously constructed areas unless it is necessary to correct  
26 surface emissions exceeding 500 parts per million of methane above  
27 background that cannot be corrected within 1 quarterly monitoring  
28 period by following the procedures of 40 CFR 60.755(c)(4)(i) to  
29 (iv), to correct a nuisance odor violation, or to maintain vacuum

1 requirements at the well located furthest from the blower. The  
2 design requirements of section 11512b(2) apply to lateral  
3 extensions and all new units at the landfill.

4 (c) If, on the effective date of the amendatory act that added  
5 this section, the landfill does not have an active gas collection  
6 and control system, the owner or operator shall submit revised  
7 plans for an active gas collection and control system within 1 year  
8 after detecting surface methane emissions at concentrations  
9 exceeding 500 parts per million above background that cannot be  
10 corrected within 1 quarterly monitoring period by following the  
11 procedures of 40 CFR 60.755(c)(4)(i) to (iv) or within 1 year after  
12 the department documents a nuisance odor violation, unless an  
13 extension of the deadline is approved by the department. The  
14 revised plans need not include upgrading of the initial system in  
15 all previously constructed areas. The revised plans shall address  
16 the areas causing the surface emissions exceedance or nuisance odor  
17 violation plus all future lateral extensions at the landfill. The  
18 design requirements of section 11512b(2) apply to the proposed  
19 active gas collection and control system. Construction of the  
20 system shall be completed within 180 days after the department  
21 approves the revised engineering plans, unless an extension is  
22 approved by the department.

23 (d) If the landfill is a new unit or lateral expansion, the  
24 owner or operator must submit engineering plans and reports for an  
25 active gas collection and control system before the department  
26 issues a solid waste disposal area construction permit.

27 (2) The design plans and engineering reports for a type II  
28 landfill required by part 115 shall be sufficient to demonstrate  
29 compliance with 40 CFR 60.759. The engineering reports shall

1 include a monitoring plan that is sufficient to demonstrate  
2 compliance with section 11512d. The department shall incorporate  
3 the design plans and engineering reports into the landfill's solid  
4 waste disposal area construction permit and solid waste disposal  
5 area operating license.

6 (3) Within 45 days after the end of each state fiscal year,  
7 the owner or operator of a type II landfill shall update  
8 engineering plans to show the as-built location of all active gas  
9 collection and control system components, unless no changes have  
10 been made. The update shall include plan views and details for any  
11 changes proposed but not previously approved. The plan views shall  
12 include proposed wells and collection headers to collect landfill  
13 gas from the landfill in future final stages as well as as-built  
14 locations for all components above grade and currently functioning  
15 below grade.

16 (4) The owner or operator of a type II landfill shall submit  
17 plans to the department before beginning an active gas collection  
18 and control system expansion project. Repairs, changes, or  
19 installations are not considered to be an expansion project if they  
20 are minor and necessary for proper maintenance of the existing  
21 active gas collection and control system. The plans shall identify  
22 gas extraction well locations, include a schedule of extraction  
23 well depths, and identify gas well pump locations, compressed air  
24 and pump force main locations, header and lateral vacuum pipe  
25 locations, condensate drip leg and sump locations, and any other  
26 relevant infrastructure, as well as construction details for these  
27 items. If, during construction, conditions require that any of the  
28 approved or proposed extraction well locations deviate more than 50  
29 feet from the proposed location or more than 25% from the proposed

1 depth, the owner or operator shall submit to the department 1 of  
2 the following:

3 (a) A statement from a licensed professional engineer that the  
4 gas wells installed will provide adequate control of landfill gas  
5 emissions and meet the intent of the design.

6 (b) A schedule for installing additional gas collectors to  
7 meet the design requirements included with the approved engineering  
8 plans.

9 (5) Within 180 days after completion of construction of  
10 portions of the active gas collection and control system, the owner  
11 or operator shall submit to the department a documentation report  
12 by a construction quality assurance officer or other department-  
13 approved designee of the landfill owner or operator that the  
14 construction complies with part 115 and the engineering plans  
15 approved by the department. All of the following information shall  
16 accompany the documentation report:

17 (a) A daily activity log, containing all of the information  
18 required by R 299.4921(3) of the MAC.

19 (b) Landfill gas well logs that include all of the following:

20 (i) Observations of the depth, composition, degree of decay,  
21 temperature, and moisture content of the waste.

22 (ii) Details of the construction of the well including borehole  
23 size and depth, pipe size and type, perforated length, aggregates  
24 utilized, soils utilized, and the location and types of seals  
25 utilized.

26 (c) An as-built engineering plan view of the active gas  
27 collection and control system with the location of existing wells  
28 and headers and the location of newly installed wells, headers, and  
29 other active gas collection and control system infrastructure.

1       Sec. 11512h. (1) The owner or operator of a type II landfill  
2 shall begin operating and monitoring an active gas collection and  
3 control system in compliance with the following schedule:

4       (a) If the landfill is described in section 11512f(1) (a) ,  
5 within 90 days after the date of approval of the revised  
6 engineering plans.

7       (b) If the landfill is described in section 11512f(1) (b) ,  
8 within 1 year after the effective date of the amendatory act that  
9 added this section.

10       (2) The owner or operator of a type II landfill without an  
11 active gas collection and control system shall begin surface  
12 emission scans within 1 year after the effective date of the  
13 amendatory act that added this section.

14       (3) The owner or operator of a type II landfill shall install  
15 an active gas collection and control system in compliance with the  
16 following schedule:

17       (a) If the landfill is a new unit, a lateral expansion, or a  
18 lateral extension and if the approved design plan includes an  
19 active gas collection and control system, the initial active gas  
20 collection and control system must be installed before waste is  
21 accepted. An initial active gas collection and control system may  
22 include horizontal collectors installed directly above the leachate  
23 collection system or vacuum applied to the leachate collection  
24 risers, or both. The initial active gas collection and control  
25 system shall be operated upon detection of landfill gas pressure in  
26 a landfill cell, as determined by any of the following:

27       (i) Surface emission scans detecting methane at concentrations  
28 exceeding 500 parts per million above background that cannot be  
29 corrected within 1 quarterly period by following the procedures of

1 40 CFR 60.755(c) (4) (i) to (iv) .

2 (ii) Positive pressure in leachate collection riser pipes.

3 (iii) Nuisance odors.

4 (iv) Visual evidence of gas emissions, such as stressed  
5 vegetation or gas bubbling through the cover.

6 (b) If, on the effective date of the amendatory act that added  
7 this section, the landfill has an active gas collection and control  
8 system and is not subject to monthly wellhead monitoring, gas  
9 extraction wells at locations as shown in the approved engineering  
10 plans shall be installed as soon as practicable, but not later than  
11 180 days after engineering plan approval, unless an extension is  
12 approved by the department.

13 (c) If the landfill does not have an active gas collection and  
14 control system, gas extraction wells at locations as shown in the  
15 approved engineering plans shall be installed as soon as  
16 practicable, but not later than 180 days after engineering plan  
17 approval, unless an extension is approved by the department.

18 (4) After waste placement and operation of the initial  
19 collection devices, if a location is identified to have methane  
20 emissions at concentrations exceeding 500 parts per million above  
21 background, the owner or operator of the landfill shall comply with  
22 40 CFR 60.755(c) (4) (i) to (iv) . If a location is identified to have  
23 methane emissions at concentrations exceeding 500 parts per million  
24 above background 3 times within a quarterly monitoring period, the  
25 owner or operator shall, within 120 days, install additional  
26 extraction devices in compliance with the approved engineering  
27 plans. The department may approve an alternative remedy or  
28 deadline.

29 Sec. 11513. ~~(1) A person shall not accept for disposal solid~~

~~waste or municipal solid waste incinerator ash that is not generated in the county in which the disposal area is located unless the acceptance of solid waste or municipal solid waste incinerator ash that is not generated in the county is explicitly authorized in the approved county solid waste management plan.~~

~~(2) Subsection (1) does not apply to coal ash that is accepted for disposal at a captive facility that, after the effective date of the amendatory act that added this subsection, accepts only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment or its corporate affiliates.~~

~~(3) The department shall take action to enforce this section within 30 days of obtaining knowledge of a violation of this section.~~

**(1) Subject to subsection (4), unless the person has notified the department, a person shall not operate a solid waste processing and transfer facility that does not at any time have on-site more than 50 cubic yards of solid waste and that is not designed to accept waste from vehicles with mechanical compaction devices. Notification shall be given upon initial operation and, subsequently, within 45 days after the end of each state fiscal year. The subsequent notices shall report the amount of solid waste managed at the facility during the preceding state fiscal year.**

**(2) Subject to subsection (4), unless the person has registered the facility with the department, a person shall not operate a solid waste processing and transfer facility that at any time has on-site more than 50 cubic yards and does not at any time have on-site more than 200 cubic yards of solid waste and that is not designed to accept waste from vehicles with mechanical compaction devices. The term of a registration is 5 years. The**

1 person shall submit an application to renew a registration at least  
2 90 days before the expiration of the current registration. An  
3 application for registration under this subsection shall contain  
4 the name and mailing address of the applicant, the location of the  
5 proposed or existing solid waste processing and transfer facility,  
6 and other information required by part 115. The application shall  
7 be accompanied by a fee of \$750.00. In addition, within 45 days  
8 after the end of each state fiscal year, the person shall submit to  
9 the department a report on the amount of materials managed at the  
10 facility during that state fiscal year.

11 (3) An application for registration submitted under subsection  
12 (2) shall be accompanied by an operations plan and site map. The  
13 department shall review operations and the operations plan for  
14 existing solid waste disposal areas to ensure compliance with  
15 operating requirements. If the department determines that an  
16 existing solid waste disposal area is noncompliant, the department  
17 may issue a schedule of remedial measures that will lead to  
18 compliance within a reasonable period of time not to exceed 1 year  
19 from the determination of deficiency.

20 (4) For a disposal area in operation before the effective date  
21 of the amendatory act that added this subsection, both of the  
22 following apply:

23 (a) Except as provided in subdivision (b), the disposal area  
24 shall follow its existing licensing renewal schedule.

25 (b) For a disposal area described in subsection (1) or (2),  
26 the operator shall submit to the department the notification or  
27 application for registration required under those subsections  
28 within 1 year after the effective date of the amendatory act that  
29 added this subsection.



1        Sec. 11514. ~~(1) Optimizing recycling opportunities, including~~  
 2 ~~electronics recycling opportunities, and the reuse of materials~~  
 3 ~~shall be a principal objective of the state's solid waste~~  
 4 ~~management plan. Recycling and reuse of materials, including the~~  
 5 ~~reuse of materials from electronic devices, are in the best~~  
 6 ~~interest of promoting the public health and welfare. The state~~  
 7 ~~shall develop policies and practices that promote recycling and~~  
 8 ~~reuse of materials and, to the extent practical, minimize the use~~  
 9 ~~of landfilling as a method for disposal of its waste. Policies and~~  
 10 ~~practices that promote recycling and reuse of materials, including~~  
 11 ~~materials from electronic devices, will conserve raw materials,~~  
 12 ~~conserve landfill space, and avoid the contamination of soil and~~  
 13 ~~groundwater from heavy metals and other pollutants.~~

14        (1) ~~(2)~~ A person shall not knowingly deliver to a landfill for  
 15 disposal, or, if the person is an owner or operator of a landfill,  
 16 knowingly ~~permit~~**allow** disposal in the landfill of, any of the  
 17 following:

18        (a) Medical waste, unless that medical waste has been  
 19 decontaminated or is not required to be decontaminated but is  
 20 packaged in the manner required under part 138 of the public health  
 21 code, 1978 PA 368, MCL 333.13801 to ~~333.13831~~**.333.13832.**

22        (b) More than a de minimis amount of open, empty, or otherwise  
 23 used beverage containers.

24        (c) More than a de minimis number of whole motor vehicle  
 25 tires.

26        (d) More than a de minimis amount of yard ~~clippings, waste,~~  
 27 ~~unless they are diseased, infested, or composed of invasive species~~  
 28 ~~as authorized by section 11521(1)(i).~~**it meets the requirements of**  
 29 **section 11555(1)(j) .**

1           (2) ~~(3)~~ A person shall not deliver to a landfill for disposal,  
 2 or, if the person is an owner or operator of a landfill, ~~permit~~  
 3 **allow** disposal in the landfill of, any of the following:

4           (a) Used oil as defined in section 16701.

5           (b) A lead acid battery as defined in section 17101.

6           (c) Low-level radioactive waste as defined in section 2 of the  
 7 low-level radioactive waste authority act, 1987 PA 204, MCL  
 8 333.26202.

9           (d) Regulated hazardous waste as defined in R 299.4104 of the  
 10 ~~Michigan administrative code.~~ **MAC.**

11           (e) Bulk or noncontainerized liquid waste or waste that  
 12 contains free liquids, unless the waste is 1 of the following:

13           (i) Household waste other than septage waste.

14           (ii) Leachate or gas condensate that is approved for  
 15 recirculation.

16           (iii) Septage waste or other liquids approved for beneficial  
 17 addition under section 11511b.

18           (f) Sewage.

19           (g) PCBs as defined in 40 CFR 761.3.

20           (h) Asbestos waste, unless the landfill complies with 40 CFR  
 21 61.154.

22           (3) ~~(4)~~ A person shall not knowingly deliver to a municipal  
 23 solid waste incinerator for disposal, or, if the person is an owner  
 24 or operator of a municipal solid waste incinerator, knowingly  
 25 ~~permit~~ **allow** disposal in the incinerator of, more than a de minimis  
 26 amount of yard ~~clippings,~~ **waste**, unless ~~they are diseased,~~  
 27 ~~infested, or composed of invasive species as authorized by section~~  
 28 ~~11521(1)(i).~~ **the requirements of section 11555(1)(j) are met.**

29           (4) The department shall post, and a ~~solid waste~~ hauler that

disposes of solid waste in a municipal solid waste incinerator shall provide its customers with, notice of the prohibitions of ~~this subsection (3)~~ in the same manner as provided in section 11527a.

(5) If the department determines that a safe, sanitary, and feasible alternative does not exist for the disposal in a landfill or municipal solid waste incinerator of any items described in subsection ~~(2)~~ **(1)** or ~~(4)~~ **(3)**, respectively, the department shall submit a report setting forth that determination and the basis for the determination to the standing committees of the senate and house of representatives with primary responsibility for solid waste issues.

Sec. 11514b. (1) A person shall not deliver to a type II landfill in this state for disposal and the owner or operator of a type II landfill shall not permit disposal in the landfill of technologically enhanced naturally occurring radioactive material with any of the following:

(a) A concentration of radium-226 more than 50 picocuries per gram.

(b) A concentration of radium-228 more than 50 picocuries per gram.

(c) A concentration of lead-210 more than 260 picocuries per gram.

(2) The owner or operator of a type II landfill shall not permit a delivery of TENORM for disposal at the landfill unless the generator has provided the following information in writing to the owner or operator of the landfill:

(a) The concentrations of radium-226, radium-228, lead-210, and any other radionuclide identified using gamma spectroscopy, or

1 an equivalent analytical method, in the TENORM based on techniques  
2 for representative sampling and waste characterization approved by  
3 the department.

4 (b) An estimate of the total mass of the TENORM.

5 (c) An estimate of the total radium-226 activity, the total  
6 radium-228 activity, and the total lead-210 activity of the TENORM.

7 (d) The proposed date of delivery.

8 (3) The department may test TENORM proposed to be delivered to  
9 a landfill.

10 (4) ~~The~~ **Within 45 days after the end of each state fiscal**  
11 **year, the** owner or operator of a type II landfill shall submit to  
12 the department an annual report that summarizes the information  
13 obtained under subsection (2) for all TENORM disposed at the  
14 landfill during the previous state fiscal year.

15 (5) The owner or operator of a type II landfill that disposes  
16 of TENORM with a concentration of radium-226 more than 25  
17 picocuries per gram, a concentration of radium-228 more than 25  
18 picocuries per gram, or a concentration of lead-210 more than 25  
19 picocuries per gram shall do all of the following:

20 (a) Ensure that all TENORM is deposited at least 10 feet below  
21 the bottom of the future landfill cap.

22 (b) Maintain records of the location and elevation of TENORM  
23 disposed of at the landfill.

24 (c) Conduct a monitoring program that complies with all of the  
25 following:

26 (i) Radiological monitoring of site workers and at the landfill  
27 property boundary are conducted as specified in the license.

28 (ii) Radium-226, radium-228, and lead-210 are included among  
29 the parameters analyzed in leachate and groundwater at the

1 frequency specified in the license.

2 (iii) Results of all monitoring required under this subsection  
3 are included in the environmental monitoring reports required under  
4 rules promulgated under this part and the facility operating  
5 license.

6 (6) As used in this section, "technologically enhanced  
7 naturally occurring radioactive material" or "TENORM" means  
8 naturally occurring radioactive material whose radionuclide  
9 concentrations have been increased as a result of human practices.

10 TENORM does not include any of the following:

11 (a) Source material, as defined in section 11 of the atomic  
12 energy act of 1954, 42 USC 2014, and its progeny in equilibrium.

13 (b) Material with concentrations of radium-226, radium-228,  
14 and lead-210 each less than 5 picocuries per gram.

15 Sec. 11515. (1) ~~Upon receipt of a license application, the~~  
16 ~~department or a health officer or an authorized representative of a~~  
17 ~~health officer shall inspect the site and determine if the proposed~~  
18 ~~operation complies with this part and the rules promulgated under~~  
19 ~~this part.~~

20 ~~(2) The department shall not license a landfill facility or~~  
21 ~~coal ash impoundment operating without an approved hydrogeologic~~  
22 ~~monitoring program until the department receives a hydrogeologic~~  
23 ~~monitoring program and the results of the program. The department~~  
24 ~~shall use this information in conjunction with other information~~  
25 ~~required by this part or the rules promulgated under this part to~~  
26 ~~determine a course of action regarding licensing of the facility~~  
27 ~~consistent with section 4005 of subtitle D of the solid waste~~  
28 ~~disposal act, title II of Public Law 89-272, 42 USC 6945, and with~~  
29 ~~this part and the rules promulgated pursuant to this part. In~~

1 ~~deciding a course of action, the department shall consider, at a~~  
2 ~~minimum, the health hazards, environmental degradation, and other~~  
3 ~~public or private alternatives. The department may do any of the~~  
4 ~~following:~~

5 ~~(a) Revoke a license.~~

6 ~~(b) Deny a license to a coal ash impoundment that has not been~~  
7 ~~previously licensed under this part.~~

8 ~~(c) Issue a timetable or schedule to provide for compliance~~  
9 ~~for the landfill or coal ash impoundment, specifying a schedule of~~  
10 ~~remedial measures, including a sequence of actions or operations,~~  
11 ~~which leads to compliance with this part within a reasonable time~~  
12 ~~period but not more than 1 year.~~**The department or an authorized**  
13 **representative of the department may inspect and investigate**  
14 **conditions relating to the generation, storage, processing,**  
15 **transportation, management, or disposal of solid waste or any**  
16 **material regulated under part 115. In conducting an inspection or**  
17 **investigation, the department or its authorized representative may,**  
18 **at reasonable times and after presenting credentials and stating**  
19 **its authority and purpose, do any of the following:**

20 (a) Enter any property.

21 (b) Have access to and copy any information or records that  
22 are required to be maintained pursuant to part 115 or an order  
23 issued under part 115.

24 (c) Inspect any facility, equipment, including monitoring and  
25 pollution control equipment, practices, or operations regulated or  
26 required under part 115 or an order issued under part 115.

27 (d) Sample, test, or monitor substances or parameters for the  
28 purpose of determining compliance with part 115 or an order issued  
29 under part 115.

1           (2) Upon receipt of an application for a permit, license,  
2 approval under a general permit, or registration under part 115,  
3 the department or an authorized representative of the department  
4 shall inspect the materials management facility, property, site, or  
5 proposed operation to determine eligibility for the permit,  
6 license, approval under a general permit, or registration. Before  
7 issuing a permit, license, approval under a general permit, or  
8 registration, the department shall file a written inspection  
9 report.

10           (3) If the department or an authorized representative of the  
11 department is refused entry or access under subsection (1) or (2),  
12 the attorney general, on behalf of this state, may do either of the  
13 following:

14           (a) Petition the court of appropriate jurisdiction for a  
15 warrant authorizing entry or access to property, information or  
16 records or authorizing sampling, testing, or monitoring pursuant to  
17 this section.

18           (b) Commence a civil action to compel compliance with a  
19 request for entry or access to property, information, or records or  
20 to sample, test, or monitor pursuant to this section.

21           (4) The department or an authorized representative may receive  
22 and initiate complaints of an alleged violation of part 115 and  
23 take action with respect to the complaint as provided in part 115.

24           (5) As used in this section, "authorized representative" means  
25 any of the following:

26           (a) A full- or part-time employee of another state department  
27 or agency acting pursuant to law or to which the department  
28 delegates certain duties under part 115.

29           (b) A local health officer.

(c) For the purpose of sampling, testing, or monitoring under subsection (1) (d), a contractor retained by the state or a local health officer.

Sec. 11516. (1) ~~The department shall conduct a consistency review before~~ **Before** making a final decision on ~~a~~ **an operating** license application **under section 11512, the department shall review the application for consistency with the requirements of part 115.** The department shall notify the clerk of the municipality in which the disposal area is located and the applicant of its approval or denial of a license application within 10 days after the final decision is made.

(2) An operating license ~~shall expire~~ **expires** 5 years after the date of issuance. An operating license may be renewed before expiration upon payment of a renewal application fee specified in section ~~11512(8)~~ **11512** if the licensee is in compliance with **part 115.** ~~this part and the rules promulgated under this part.~~

~~(3) The issuance of the operating license under this part empowers the department or a health officer or an authorized representative of a health officer to enter at any reasonable time, pursuant to law, in or upon private or public property licensed under this part for the purpose of inspecting or investigating conditions relating to the storage, processing, or disposal of any material.~~

~~(4) Except as otherwise provided in this subsection, the department shall not issue an operating license for a new disposal area within a planning area unless a solid waste management plan for that planning area has been approved pursuant to sections 11536 and 11537 and unless the disposal area complies with and is consistent with the approved solid waste management plan. This~~



~~subsection does not prohibit the issuance of a license for a  
 captive facility that is a coal ash impoundment or a coal ash  
 landfill in the absence of an approved county solid waste  
 management plan, upon receipt of a letter of approval from  
 whichever county or counties, group of municipalities, or regional  
 planning agency has prepared or is preparing the county solid waste  
 management plan for that planning area under section 11533 and from  
 the municipality in which the disposal area is to be located.~~

**(3)** ~~(5)~~ Issuance of an operating license by the department  
 authorizes the licensee to accept waste for disposal in certified  
 portions of the disposal area for which a bond was established  
 under section 11523 and, for type II landfills, for which financial  
 assurance was demonstrated under section 11523a. If the  
 construction of a portion of a landfill licensed under this section  
 is not complete ~~at~~ **by** the time ~~of the~~ license application **is**  
**submitted**, the owner or operator of the landfill shall submit a  
 certification under the seal of a licensed professional engineer  
 verifying that the construction of that portion of the landfill has  
 proceeded according to the approved plans at least 60 days ~~prior to~~  
**before** the anticipated date of waste disposal in that portion of  
 the landfill. If the department does not deny the certification  
 within 60 days of receipt, the owner or operator may accept waste  
 for disposal in the certified portion. In the case of a denial, the  
 department shall issue a written statement ~~stating of~~ the reasons  
 why the construction or certification is not consistent with ~~this~~  
~~part or rules promulgated under this part 115~~ or the approved  
 plans.

**(4) The final exterior landfill slopes approved by the  
 department, including the slope of the top of waste beneath the**

1 final cover, shall not be steeper than 25% except where necessary  
2 for either of the following:

3 (a) To install berms for erosion control.

4 (b) To vertically transition the side slope back to permitted  
5 final waste grades upslope from an area that has received final  
6 cover and has settled below permitted grades. The department may  
7 approve the transition slope if it does not exceed 33% and the  
8 owner or operator demonstrates, through revised engineering plans  
9 and analyses, that the steeper slope will not result in increased  
10 erosion or reduced stability in either the interim or final cover  
11 conditions. The landfill owner or operator shall provide enhanced  
12 soil erosion protection to the top surface of the transition slope  
13 to ensure interim and long-term erosion control and stability  
14 equivalent to a 25% side slope.

15 Sec. 11517. (1) ~~Within 9 months after the completion of~~  
16 ~~construction of a municipal solid waste incinerator, the owner or~~  
17 ~~operator of a municipal solid waste incinerator shall submit a plan~~  
18 ~~to the department for a program that, to the extent practicable,~~  
19 ~~reduces the incineration of noncombustible materials and dangerous~~  
20 ~~combustible materials and their hazardous by-products at the~~  
21 ~~incinerator. The department shall approve or disapprove the plan~~  
22 ~~submitted under this subsection within 30 days after receiving it.~~  
23 ~~In reviewing the plan, the department shall consider the current~~  
24 ~~county solid waste management plan, available markets for separated~~  
25 ~~materials, disposal alternatives for the separated materials, and~~  
26 ~~collection practices for handling such separated materials. If the~~  
27 ~~department disapproves a plan, the department shall notify the~~  
28 ~~owner or operator submitting the plan of this fact, and shall~~  
29 ~~provide modifications that, if included, would result in the plan's~~

~~approval. If the department disapproves a plan, the owner or operator of a municipal solid waste incinerator shall within 30 days after receipt of the department's disapproval submit a revised plan that addresses all of the modifications provided by the department. The department shall approve or disapprove the revised plan within 30 days after receiving it, and approval of the revised plan shall not be unreasonably withheld.~~

~~(2) Not later than 6 months after the approval of the plan by the department under subsection (1), the owner or operator shall implement the plan in accordance with the implementation schedule set forth in the plan. The operation of a municipal solid waste incinerator without an approved plan under this section shall subject the owner or operator, or both, to all of the sanctions provided by this part.~~**After the department approves the closure certification for a landfill unit under section 11523a, the owner or operator shall conduct postclosure care of that unit in compliance with a postclosure plan approved by the department and shall maintain financial assurance in compliance with part 115 including any additional financial assurance required based on an extension of the postclosure care period under subsection (3). The postclosure plan may include monitoring and maintenance provisions not otherwise required by part 115 if designed to achieve and demonstrate functional stability, such as monitoring settlement. Postclosure care shall be conducted for 30 years, except as provided under subsection (2) or (3), and consist of at least all of the following conducted as required by part 115:**

**(a) Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other**

1 events, and preventing run-on and run-off from eroding or otherwise  
2 damaging the final cover.

3 (b) Maintaining and operating the leachate collection system,  
4 if any. The department may waive the requirements of this  
5 subdivision if the owner or operator demonstrates that leachate no  
6 longer poses a threat to the environment, natural resources, or the  
7 public health, safety, or welfare.

8 (c) Monitoring the groundwater and maintaining the groundwater  
9 monitoring system, if any.

10 (d) Maintaining and operating the gas monitoring and  
11 collection system, if any.

12 (2) The department, by written notification to the landfill  
13 owner or operator, shall shorten the postclosure care period  
14 specified under subsection (1) if the landfill owner or operator  
15 submits to the department, and the department approves, a petition  
16 certified by a licensed professional engineer and a qualified  
17 groundwater scientist that demonstrates all of the following:

18 (a) The landfill's closure certification was approved by the  
19 department under section 11523a.

20 (b) The owner or operator has complied with postclosure care  
21 maintenance and monitoring requirements for at least 15 years.

22 (c) The landfill has achieved functional stability, including,  
23 but not limited to, meeting all of the following requirements:

24 (i) There has been no release from the landfill into  
25 groundwater or surface water requiring ongoing corrective action.

26 (ii) There is no ongoing subsidence or significant past  
27 subsidence of waste in the unit that may result in ponding or  
28 erosion that would significantly increase infiltration through or  
29 cause damage to the final cover.

1           (iii) The landfill does not produce more than minimal amounts of  
2 combustible gases.

3           (iv) Combustible gases from the landfill have not been detected  
4 at or beyond the landfill's property boundary or in facility  
5 structures.

6           (v) The landfill does not produce nuisance odors requiring  
7 control.

8           (vi) Leachate and gas collection and control system condensate  
9 generation has ceased, leachate and condensate quality meets  
10 criteria for acceptable surface water or groundwater discharge, or  
11 leachate and condensate can be discharged through existing leachate  
12 and condensate handling facilities, such as sewers connected to a  
13 publicly owned treatment works.

14           (vii) The final exterior landfill slopes are as approved by the  
15 department under section 11516(4).

16           (d) Any other conditions necessary, as determined by the  
17 department, to protect the environment, natural resources, or the  
18 public health, safety, or welfare are met.

19           (3) The department shall extend the postclosure care period  
20 specified in subsection (1) for a landfill unit if any of the  
21 following apply:

22           (a) The owner or operator did not close the landfill unit as  
23 required by part 115.

24           (b) The final cover of the landfill unit has not been  
25 maintained and has significant ponding, erosion, or detrimental  
26 vegetation present.

27           (c) Groundwater monitoring has not been conducted in  
28 compliance with the approved monitoring plan or groundwater  
29 affected by the landfill unit exceeds criteria established under

1 part 201.

2 (d) There is ongoing differential settlement of waste, as  
3 evidenced by significant ponding of water on the landfill cover.

4 (e) Gas monitoring has detected combustible landfill gases at  
5 or beyond the landfill boundary or in a facility structure above  
6 applicable criteria or gas from the unit continues to be generated  
7 at a rate that produces nuisance odors.

8 (f) Leachate or gas collection and control system condensate  
9 continues to be generated by the landfill unit in quantities or  
10 quality that may threaten groundwater or surface water.

11 (4) The owner or operator of a landfill unit that has been  
12 released from postclosure care of the unit shall do all of the  
13 following with respect to the landfill unit:

14 (a) Exercise custodial care by undertaking any activity  
15 necessary to maintain the effectiveness of the final cover, prevent  
16 the unauthorized discharge of leachate, prevent impacts to the  
17 surface or groundwater, mitigate the fire and explosion hazards due  
18 to combustible gases, and manage the landfill unit in a manner that  
19 protects environment, natural resources, and the public health,  
20 safety, and welfare.

21 (b) Comply with any land use or resource use restrictions  
22 established for the landfill unit.

23 Sec. 11518. (1) ~~At the time a disposal area that is a sanitary~~  
24 **When a** landfill **cell** is **first** licensed, an instrument that imposes  
25 a restrictive covenant upon the land involved shall be executed by  
26 all of the owners of the ~~tract of land upon which the landfill is~~  
27 ~~to be located~~ **land** and the department. If the land ~~involved is~~  
28 ~~state owned,~~ **is owned by this state**, the state administrative board  
29 shall execute the covenant on behalf of ~~the~~ **this** state. The

1 **department or a local health officer shall file the** instrument  
 2 imposing the restrictive covenant ~~shall be filed for record by the~~  
 3 ~~department or a health officer in the office of the register of~~  
 4 deeds of the county, or counties, in which the ~~facility~~**land** is  
 5 located. The covenant shall state that the land described in the  
 6 covenant ~~has been or~~ will be used as a landfill and that neither  
 7 the property owners, their servants, agents, or employees, nor any  
 8 of their heirs, successors, lessees, or assigns shall, **without**  
 9 **authorization from the department,** engage in filling, grading,  
 10 excavating, drilling, or mining on the property during the first 50  
 11 years following ~~completion of the landfill without authorization of~~  
 12 ~~the department.~~ **approval by the department of the landfill's**  
 13 **closure certification under section 11523a.** In giving  
 14 authorization, the department shall consider the original design,  
 15 type of operation, material deposited, and the stage of  
 16 decomposition of the fill. ~~Special~~**The department may grant an**  
 17 exemption from this section ~~may be granted by the department if the~~  
 18 ~~lands involved are federal lands or if contracts~~ **if the land**  
 19 **involved is federally owned or if agreements** existing between the  
 20 landowner and the licensee on January 11, 1979 are not  
 21 renegotiable.

22 (2) ~~This part~~ **Part 115** does not prohibit the department from  
 23 conveying, leasing, or permitting the use of state land for a ~~solid~~  
 24 ~~waste~~ disposal area or a resource recovery facility as provided by  
 25 applicable state law.

26 (3) When a disposal area that is a coal ash impoundment is  
 27 **first** licensed under this part, an instrument that imposes a  
 28 restrictive covenant upon the land involved shall be executed by  
 29 all of the owners of the ~~tract of land upon which the impoundment~~

1 ~~is located or is to be located~~ **land** and the department. If the land  
 2 ~~involved~~ is owned by this state, the state administrative board  
 3 shall execute the covenant on behalf of this state. The **department**  
 4 **or a local health officer shall file the** instrument imposing the  
 5 restrictive covenant ~~shall be filed for record by the department or~~  
 6 ~~a health officer~~ in the office of the register of deeds of the  
 7 county, or counties, ~~in which the disposal area~~ **the land** is  
 8 located. The covenant shall state that the land described in the  
 9 covenant ~~has been or~~ will be used as a coal ash impoundment and  
 10 that neither the property owners, their servants, agents, or  
 11 employees, nor any of their heirs, successors, lessees, or assigns  
 12 shall, **without authorization from the department**, engage in  
 13 filling, grading, excavating, drilling, or mining on the property  
 14 during the first 50 years following completion of the impoundment.  
 15 ~~without authorization of the department.~~ In giving authorization,  
 16 the department shall consider the original design, type of  
 17 operation, material deposited, and any removal of the materials as  
 18 part of the closure of the impoundment.

19 (4) An industrial waste landfill may accept industrial waste  
 20 of different types and from different generators, but shall not  
 21 accept hazardous waste generated by conditionally exempt small  
 22 quantity generators.

23 Sec. 11519. (1) The department shall specify, in writing, the  
 24 reasons for denial of **an application for** a ~~construction permit, or~~  
 25 an operating license, ~~further specifying those particular~~ **an**  
 26 **approval under a general permit, or a registration, including the**  
 27 sections of ~~this part or rules promulgated under this part~~ **115** that  
 28 may be violated by granting the application and the manner in which  
 29 the violation may occur.



(2) ~~The~~ If a materials management facility is established, constructed, or operated in violation of the conditions of a permit, license, approval under a general permit, or registration, in violation of part 115 or an order issued under part 115, or in a manner not consistent with an MMP, all of the following apply:

(a) A local health officer or ~~the~~ department may issue a cease and desist order specifying a schedule of closure or remedial action in ~~accordance~~ **compliance** with this part and rules ~~promulgated under this part~~ 115 or may establish ~~enter~~ a consent agreement specifying a schedule of closure or remedial action ~~in accordance with this part and rules promulgated under this part to a person who establishes, constructs, conducts, manages, maintains, or operates a disposal area without a permit or license or to a person who holds a permit or license but establishes, constructs, conducts, manages, maintains, or operates a disposal area contrary to an approved solid waste management plan or contrary to the permit or license issued under this part.~~ **under part 115.**

(b) ~~(3)~~ The department may issue a final order revoking, suspending, or restricting a ~~the~~ permit, ~~or~~ license, **approval under a general permit, or registration or a notification** after a contested case hearing as provided in the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, if the department finds that the disposal area is not being constructed or operated in accordance with the approved plans, the conditions of a permit or license, this part, or the rules promulgated under this part. A final order issued pursuant to this section is subject to judicial review as provided in Act No. 306 of the Public Acts of 1969. The department or a health officer shall inspect and file a written~~

~~report not less than 4 times per year for each licensed disposal area. The department or the health officer shall provide the municipality in which the licensed disposal area is located with a copy of each written inspection report if the municipality arranges with the department or the health officer to bear the expense of duplicating and mailing the reports.~~**1969 PA 306, MCL 24.201 to 24.328.**

**(c) (4)**~~The department may issue an order summarily suspending a the permit, or license, approval under a general permit, or registration or a notification, if the department determines that a violation of this part or rules promulgated under this part has occurred which, in the department's opinion, the violation or inconsistency constitutes an emergency or poses an imminent risk of injury to the public health or the environment, natural resources, or the public health, safety, or welfare. A determination that a violation poses an imminent risk of injury to the public health shall be made by the department.~~ Summary suspension may be ordered effective on the date specified in the order or upon service of a certified copy of the order on the licensee, **owner or operator**, whichever is later, and ~~shall remain~~**remains** effective during the proceedings. The proceedings shall be commenced within 7 days ~~of~~**after** the issuance of the order and shall be promptly determined.

**(3) A final order issued pursuant to this section is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.**

Sec. 11519b. (1) Placement of coal ash and associated liquids into an existing coal ash impoundment or coal ash impoundment licensed under this part is permitted and shall be conducted consistent with ~~good management practices as defined in section~~

1 11519a and this section.

2 (2) If the detection monitoring required in sections  
3 11511a(3), 11512a(1), and 11519a(1)(h) confirms a statistically  
4 significant increase over background for 1 or more of the  
5 constituents listed in section 11511a(3), the owner and operator of  
6 a coal ash landfill or coal ash impoundment shall comply with R  
7 299.4440 and 299.4441 of the ~~part 115 rules,~~ **MAC**, including, as  
8 applicable, conducting assessment monitoring and preparation of a  
9 response action plan in compliance with R 299.4442 of the ~~part 115~~  
10 ~~rules.~~ **MAC**. The constituents to be monitored in the assessment  
11 monitoring program shall include those listed in section 11511a(3)  
12 and all of the following:

- 13 (a) Antimony.
- 14 (b) Arsenic.
- 15 (c) Barium.
- 16 (d) Beryllium.
- 17 (e) Cadmium.
- 18 (f) Chromium.
- 19 (g) Cobalt.
- 20 (h) Copper.
- 21 (i) Lead.
- 22 (j) Lithium.
- 23 (k) Nickel.
- 24 (l) Mercury.
- 25 (m) Molybdenum.
- 26 (n) Selenium.
- 27 (o) Silver.
- 28 (p) Thallium.
- 29 (q) Vanadium.

(r) Zinc.

(s) Radium 226 and 228 combined.

(3) The constituents listed in this section shall be analyzed by methods ~~specified~~ **identified** in "Standard Methods for the Examination of Water and Wastewater, ~~19th~~ **20th** edition", ~~published by the United States Environmental Protection Agency,~~ **(jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation)** or **"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015)** or by other methods approved by the director or his or her designee.

(4) If the owner or operator of a coal ash landfill or coal ash impoundment is obligated to prepare a response action plan, the owner or operator shall comply with R 299.4442 to R 299.4445 of the ~~part 115 rules,~~ **MAC**, as applicable.

(5) The owner or operator of a coal ash landfill shall place landfill cover materials that are described in R 299.4304 of the ~~part 115 rules~~ **MAC**, over the entire surface of each portion of the final lift not more than 6 months after the final placement of coal ash within the landfill or landfill unit.

(6) The owner or operator of a coal ash impoundment shall begin to implement closure as described in R 299.4309(7) of the ~~part 115 rules~~ **MAC** not more than 6 months after the final placement of coal ash within the impoundment and shall diligently pursue the closure. The closure shall be completed in compliance with 40 CFR 257.102(f) (1) and (2).

(7) ~~Coal ash impoundments~~ **A coal ash impoundment** or coal ash

~~landfills~~**landfill** may be closed as a type III landfill pursuant to the applicable rules or by removal of **the** coal ash from the **coal ash** impoundment **or coal ash landfill** as described in ~~this part 115.~~

(8) If a coal ash impoundment is closed by ~~the date that is 2 years after the effective date of the amendatory act that added this section~~**December 28, 2020**, and the department accepts the certification of the closure, the owner is not required to provide financial assurance under section 11523 or pay into a perpetual care fund under section 11525.

(9) Closure by removal of coal ash under subsection (7) is complete when either of the following requirements are met:

(a) The owner or operator certifies compliance with the requirements of 40 CFR 257.102(c).

(b) The owner or operator certifies that testing confirms that constituent concentrations remaining in the coal ash impoundment or landfill unit and any concentrations of soil or groundwater affected by releases therefrom do not exceed the lesser of the applicable standards adopted by the department pursuant to section 20120a or the groundwater protection standards established pursuant to 40 CFR 257.95(h) and the department accepts the certification, or, if the constituent concentrations do exceed those standards, the department has approved a remedy consistent with R 299.4444 and R 299.4445 of the ~~part 115 rules~~**.MAC**.

(10) Upon completion of the closure by removal under subsection (9), **all of the following apply**:

**(a) The** financial assurance under section 11523 and perpetual care fund under section 11525 shall be terminated. ~~the~~

**(b) The** owner or operator is not required to provide financial assurance or contribute to a perpetual care fund. ~~and any~~

1       (c) **Any** claim to the assurance or fund by the department is  
 2 terminated and released. The termination and release do not impair  
 3 the department's authority to require, whether upon completion of  
 4 closure under subsection (9)(b) or subsequently, financial  
 5 assurance for corrective action as provided under this act.

### 6                   SUBPART 3 WASTE DIVERSION CENTERS

7       Sec. 11521b. (1) The operator of a waste diversion center  
 8 shall comply with all of the following requirements:

9       (a) ~~At least 90%, by volume, of the material collected at the~~  
 10 ~~waste diversion center shall consist of diverted waste to be~~  
 11 ~~managed at the waste diversion center.~~ **On an annual basis, not**  
 12 **receive an amount of solid waste equal to or greater than 15%, by**  
 13 **weight, of the diverted waste received by the facility.**

14       (b) ~~The~~ **Ensure that personnel operating the** waste diversion  
 15 center ~~shall be operated by personnel who are knowledgeable about~~  
 16 the safe management of the types of diverted waste that are  
 17 accepted at the waste diversion center.

18       (c) ~~The operator shall manage~~ **Manage** the diverted waste in a  
 19 manner that prevents the release of any diverted waste or component  
 20 of diverted waste to the environment.

21       (d) ~~The operator shall not~~ **Not** store diverted waste overnight  
 22 at the waste diversion center except in a secure location and with  
 23 ~~adequate containment~~ **that is adequate** to prevent any release of  
 24 diverted ~~wastes.~~ **waste.**

25       (e) Within 1 year after diverted waste is collected by the  
 26 waste diversion center, **transfer** that diverted waste ~~shall be~~  
 27 ~~transported from the waste diversion center to a~~ **another** waste  
 28 diversion center, **a** recycling facility, or **a** disposal facility that  
 29 ~~is in compliance with this act,~~ **meets the requirement of section**

1 **11508(1)(a)**, for processing, recycling, or disposal.

2 (f) ~~The operator shall not~~ **Not** process diverted waste except  
3 to the extent necessary for the safe and efficient transportation  
4 of the diverted waste.

5 (g) ~~The operator shall record~~ **Record** the types and quantities  
6 of diverted ~~wastes~~ **waste** collected, the period of storage, and  
7 where the diverted ~~wastes were~~ **waste was** transferred, processed,  
8 recycled, or disposed of. The operator shall maintain the records  
9 for at least 3 years and shall make the records available to the  
10 department upon request.

11 (h) ~~Access~~ **Allow access** to the waste diversion center ~~shall be~~  
12 ~~limited to a time~~ **only** when a responsible individual is on duty.

13 (i) ~~The~~ **As appropriate for the type of diverted waste, protect**  
14 **the** area where the diverted waste is accumulated ~~shall be~~  
15 ~~protected, as appropriate for the type of waste, from weather,~~  
16 fire, physical damage, and vandals.

17 (j) ~~The~~ **Keep the** waste diversion center ~~shall be kept~~ clean  
18 and free of litter **and operate in a manner that does not create a**  
19 **nuisance or hazard to the environment, natural resources, or the**  
20 **public health, safety, or welfare.**

21 (k) If the primary function of an entity is to serve as a  
22 waste diversion center, notify the department of the waste  
23 diversion center. Notification shall be given upon initial  
24 operation and subsequently within 45 days after the end of each  
25 state fiscal year. The subsequent notices shall report the amount  
26 of solid waste diverted at the facility during the preceding state  
27 fiscal year. The notification requirement applies to both of the  
28 following:

29 (i) For the initial notification, entities that anticipate

collecting more than 50 tons of diverted or recyclable materials in the state fiscal year in which the notification is given.

(ii) For subsequent notifications, entities that collected more than 50 tons of diverted or recyclable materials in the preceding state fiscal year.

~~(2) Management of diverted wastes as required by this section is not considered disposal for the purposes of section 11538(6).~~

(2) ~~(3)~~ The operator of a waste diversion center may reject any diverted waste.

Enacting section 1. Sections 11521 and 11522 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11521 and 324.11522 are repealed.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

- (a) House Bill No. 4454.
- (b) House Bill No. 4455.
- (c) House Bill No. 4457.
- (d) House Bill No. 4458.
- (e) House Bill No. 4459.
- (f) House Bill No. 4460.
- (g) House Bill No. 4461.